IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1432 of 1984

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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JOSHI ASHOKKUMAR BABUBHAI - Appellant(s)
Versus
RAJASTHAN STATE ROAD TRANSPORTCORPORATION - Defendant(s)

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Appearance :
MR KG SHETH for Appellant(s) : 1,
MR KB PUJARA for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 08/08/2006

ORAL JUDGMENT

1. This appeal is directed against the judgement and award dated 29.11.1982 passed by the Motor Accident Claims Tribunal (Aux.) Narol in Motor Accident Claims Tribunal Case No. 320 of 1980 whereby the claims was decreed for a sum of Rs. 1500/-.

2. The case of the appellant is that on 08.01.1980 the S.T. Bus bearing Registration No. R.S.G. 6997

left Nathdwara for Ahmedabad. Thereafter in the morning of the next day i.e. On 09.04.1980 at about 4.30 a.m. it met with an accident at a place between the village Balos and Jathipura. Several passengers who were travelling in the said bus received injuries, on account of which some or of them died either immediately or during treatment.

2.1 The present appellant has travelled in the said bus and as a result of the said accident he lost some of his teeth. Therefore he claimed Rs. 20,000/- by way of compensation.

3. Learned advocate for the appellant has submitted that learned Judge has erred in not awarding Rs. 20,000/- by way of full compensation as prayed for and erred in only awarding Rs. 1,500/-. He further submitted that learned Judge ought to have seen that five teeth are required to be removed of the appellant and therefore the loss occurred on that account requires to be compensated.

4. Mr. Pujara, learned advocate for the respondent

has submitted that the order of the tribunal is just and proper and no enhancement has required.

5. Heard both the parties I have gone through the judgement and award of the Tribunal in this case from Ex. 113 it is clear the appellant has lost his 5 teeth at young age and he has to undergo treatment and suffering. I am of the opinion that tribunal has committed an error in granting compensation of only Rs. 1,500/- and I am of the view that looking to the overall facts and circumstances of the case, the appellant is entitled for Rs. 5000/-. The Tribunal has already awarded Rs. 1,500/- and therefore the appellant is entitled for (Rs. 5,000 – Rs. 1,500 = Rs. 3,500) an additional amount of ***Rs. 3,500/-.***

In the premises aforesaid the appellant shall be entitled for an additional amount of Rs. ***3,500/-*** along with interest at the rate of ***6%*** interest. The award of the Tribunal is modified accordingly. Appeal is allowed to the aforesaid extent with no order as to costs.

(K.S.JHAVERI, J.)

Suresh*